



# California Regulatory Notice Register

REGISTER 2005, NO. 7-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

FEBRUARY 18, 2005

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order or make changes to current subscriptions, please call (916) 445-5353 or (916) 445-5386. For outside of the Sacramento area, call (800) 963-7860. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Mass Mail/Addressing Services, Sacramento, CA 95814-0212. The Register can also be accessed at <http://www.oal.ca.gov>.

## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. STATE LANDS COMMISSION

TITLE 2. ADMINISTRATION  
DIVISION 3. STATE PROPERTY OPERATIONS  
CHAPTER 1. STATE LANDS COMMISSION

#### ARTICLE 4.6. Ballast Water Regulations for Vessels Arriving at California Ports or Places after Departing from Ports or Places within the Pacific Coast Region

The California State Lands Commission (the Commission) proposes to adopt the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Commission proposes to adopt Section 2280, 2281, 2282, 2283, and 2284 under new Article 4.6 in Title 2, Division 3, Chapter 1 of the California Code of Regulations (C.C.R.). These sections would establish regulations governing the management of ballast water taken on within the Pacific Coast Region by vessels arriving at a California port or place. Provisions are also included to provide a process for the submission and approval of petitions for alternatives to Article 4.6, should such cases occur.

#### PUBLIC HEARING

The Commission Staff will hold two public hearings. The first will begin at 2:00 p.m. on April 4, 2005, at the State of California Elihu Harris Building, 1515 Clay Street, Room 9, Oakland, CA 94612, and the second will begin at 2:00 p.m. on April 7, 2005, at the Board Room, Port of Long Beach, 925 Harbor Plaza, 6th Floor, Long Beach, CA 90802. Both locations are wheelchair accessible. At the hearings, any person may present statements or arguments orally or in writing, relevant to the proposed regulatory action described in the Informative Digest. The Commission requests, but does not require, that persons who make oral comments at the hearings also submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at 5:00 p.m. on April 7, 2005. All written comments must be received at the Commission, by that time. Written comments should be submitted to:

Livin Prabhu  
Supervisor, Planning Branch  
California State Lands Commission  
Marine Facilities Division  
200 Oceangate, Suite 900  
Long Beach, CA 90802-4246

#### AUTHORITY AND REFERENCE

P.R.C. Section 71207 describes the State program to regulate discharges of ballast water in order to limit the introduction of nonindigenous species. In enforcing the provisions of the Act, the Commission is authorized to adopt the proposed regulations, which would implement, interpret or make specific P.R.C. Section 71204.5.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

P.R.C. Section 71204.5, which became effective January 1, 2004, requires the Commission adopt regulations governing ballast water management practices for vessels arriving at a California port or place from a port or place within the Pacific Coast Region. Under Section 71200(j), "Pacific Coast Region" is defined as all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 25 degrees N latitude, exclusive of the Gulf of California. Section 71204.5 also mandates the Commission to consider vessel design and voyage duration in developing these regulations. The section further requires the Commission to develop the regulations based on the best available technology economically achievable and shall be designed to protect the waters of the state. Finally, the Commission in developing the regulations shall include, as appropriate, restrictions or prohibitions on discharge of ballast water containing nonindigenous species into areas in and outside estuaries and into ocean areas shown to have a capacity to retain organisms.

Accordingly, the proposed regulation would implement and make specific the ballast water management requirements under P.R.C. Section 71204.5. Without the regulations, the purpose of the Act as described in P.R.C. Section 71201(d) cannot be achieved.

Section 2280 would state the purpose of the regulation.

Section 2280(b) would specify the vessels and voyages to which these regulations apply.

Section 2280(c) would identify the date of implementation of the regulation.

Section 2281 would specifically describe special safety circumstances under which a vessel may not be required to perform ballast water management as directed in Article 4.6 of section 2284. It identifies the person(s) responsible for determining if a vessel has encountered such a circumstance, the person(s) responsible for the safety of the vessel and persons on board, and describes the obligations a vessel must strive to fulfill on those occasions.

Section 2282 would narrowly define several key terms that are used throughout the language of the regulation to describe management requirements and regulation applicability. These definitions ensure that the ballast specific management practices are clear to the shipping industry, and compliance occurs as intended by the regulation.

Section 2283(a) would describe a process for the submission and approval of petitions for alternatives to Article 4.6, should such cases occur. Alternatives proposed in petitions must fulfill the purpose of the regulation in section 2280 (a), and will be approved or withdrawn by the Commission.

Section 2284 would describe ballast water management options that have been deemed the most biologically effective and economically feasible action moving the state expeditiously toward the elimination of the discharge of nonindigenous species into the waters of the state.

#### **DIFFERENCES FROM FEDERAL REGULATIONS**

Recognizing the severity of the problem, the federal government implemented a voluntary national ballast water management and reporting program in July 1999. In September 2004, the federal government made mandatory this voluntary ballast water management program for vessels entering the United States. However, this mandatory program does not apply to vessels operating inside the United States Exclusive Economic Zone (U.S. EEZ). The transport of ballast water in marine vessels is recognized as a major vehicle through which aquatic nonindigenous invasive species (NIS) are spread. Current California law requires that vessels originating from places outside of the U.S. EEZ manage ballast water to reduce the discharge of nonindigenous organisms in California waters. However, there is currently no ballast management requirement for vessels that arrive in California

ports from places within the U.S. EEZ, and in particular, the Pacific Coast Region, even though research has shown that there is a significant threat for such voyages to facilitate the establishment and spread of NIS throughout a region.

The ballast water management practices prescribed by these proposed regulations are necessary to minimize the transport of Pacific Coast Region NIS into the waters of the State of California.

#### **PLAIN ENGLISH DETERMINATION AND OVERVIEW**

##### **Small Business Determination**

The Commission has determined that these regulations do not affect small businesses as defined in Government Code (Gov. C.) Section 11342(h), because all affected businesses are commercial maritime transport owners and operators, as specified under Gov. C. Section 11342(h)(2)(H), and having annual gross receipts of more than \$1,500,000, as specified under Gov. C. Section 11342(h)(2)(I)(vii).

##### **Plain English Policy Overview**

The proposed regulations have been drafted in a plain and straightforward manner and do not contain technical terms that require a plain English policy overview.

#### **ESTIMATED COSTS TO THE STATE**

No costs to the State would be incurred in implementing and enforcing these proposed regulations. The programs mandated by the Act are funded exclusively by the Marine Invasive Species Control Fund, through fees collected from the owners of vessels subject to the Act. Since the regulations here proposed are already mandated by the Act, the regulations will not increase costs to the State.

#### **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: None.

Costs or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Part 7 (commencing with section 17500) of Division 4 of the Government Code. None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Costs or savings in federal funding to the state: None.

Cost impact on private persons or directly affected businesses: For each voyage that would be subject to the proposed regulations, but that would not otherwise be subject to the existing California ballast water management regulations, incremental costs would include the per voyage fee of \$500. Based on



information provided by members of the regulated community, in some instances, changes in voyages and ballast water management practices could result in incremental costs for a voyage in an amount between \$3000 and \$40,000. These assertions have not been verified. Furthermore, of the 450 ship owners that have operated in California waters in the past 18 month, only four (4) responded to the Commission's request for cost impacts, and only one of the four companies assert cost impacts of approximately \$40,000 per voyage. Such additional operational costs would occur, if at all, for less than 10% of those voyages which would not otherwise be subject to the existing ballast water regulations, but would be subject to the new requirements.

Creation or elimination of jobs within the State of California: The Commission has determined that the proposed regulations will not have a significant impact on the creation or elimination of jobs within the State of California.

Creation of new businesses or the elimination of existing businesses within the State of California: The Commission has determined that the proposed regulations will not have a significant impact on the creation or elimination of businesses within the State of California.

Expansion of businesses currently doing business within the State of California: The Commission has determined that the proposed regulations would not have a significant impact upon expansion of businesses currently doing business within the State of California.

The Commission has made an initial determination that the action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Gov. C. Section 11346.5, sub. (a)(13), the Commission must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the Commission's attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearings or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action may be directed to:

Maurya B. Falkner  
Environmental Program Manager I  
State Lands Commission  
Marine Facilities Division  
100 Howe Avenue, Suite 100-South  
Sacramento, CA 95825-8202  
Telephone: (916) 574-2568

Or to:

Mark A. Meier  
Senior Staff Counsel  
State Lands Commission  
100 Howe Avenue, Suite 100 South  
Sacramento, CA 95825-8202  
Telephone: (916) 574-1853

Requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based should be directed to:

Livin Prabhu  
Supervisor, Planning Branch  
State Lands Commission  
Marine Facilities Division  
200 Oceangate, Suite 900  
Long Beach, CA 90802-4246  
Telephone: (562) 499-6400

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at either of the above addresses. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting Livin Prabhu at the address or telephone number listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the hearing and considering all timely and relevant comments received, the Commission may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Commission adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Livin Prabhu at the address indicated above. The Commis-

sion will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL  
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Livin Prabhu at the address or telephone number listed above.

**AVAILABILITY OF DOCUMENTS  
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations, can be accessed through the Commission's website at: [http://www.slc.ca.gov/Division\\_Pages/MFD/MFD\\_Home.htm](http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home.htm)

**TITLE 2. STATE  
TREASURER'S OFFICE**

**NOTICE OF INTENTION TO AMEND  
CONFLICT OF INTEREST CODE**

NOTICE IS HEREBY GIVEN that PHILIP ANGELIDES, the Treasurer of the State of California, pursuant to the authority vested in it by section 87300 of the Government Code, proposes to amend the conflict of interest code of the Officer of the State Treasurer, and of the following State boards, authorities, commissions and committees chaired by the Treasurer:

- Office of the State Treasurer
- California Alternative Energy and Advanced Transportation Financing Authority
- California Debt and Investment Advisory Commission
- California Debt Limit Allocation Committee
- California Educational Facilities Authority
- California Health Facilities Financing Authority
- California Industrial Development Financing Advisory Commission
- California Pollution Control Financing Authority
- California School Finance Authority
- California Urban Waterfront Area Restoration Financing Authority
- Local Agency Investment Advisory Board
- California Tax Credit Allocation Committee
- Pooled Money Investment Board
- ScholarShare Investment Board

Pursuant to Government Code sections 87300–87302, the conflict of interest code will designate employees who must disclose certain investments, income, interests in real property and business positions, and who must disqualify themselves from making or participating in the making of governmental

decisions affecting those interests. The amendments are proposed to revise and update the list of designated employees, as well as the list of members of the boards, authorities, commissions and committees listed above. The amendments include:

- Addition of designated positions in the State Treasurer's Office;
- Deletion of positions in the State Treasurer's Office.

Copies of the proposed amended code are available and may be requested from the contact person set forth below.

**WRITTEN COMMENT PERIOD**

A written comment period has been established commencing on February 15, 2005, and terminating on April 6, 2005. Any interested person may present written comments concerning the proposed amendments to the conflict of interest code no later than April 6, 2005 to:

State Treasurer's Office  
Attention: Mark Paxson  
915 Capitol Mall, Room 110  
Sacramento, CA 95814

No public hearing on this matter will be held unless any interested person or his or her representative requests a public hearing. Such a request must be submitted no later than March 22, 2005, by contacting the contact person set forth below.

The Treasurer has prepared a written explanation of the reasons for the designations and the disclosure responsibilities and has available all of the information upon which its proposal is based.

**AGENCY CONTACT**

Copies of the proposed amendments to the conflict of interest code and all of the information upon which the amendments are based may be obtained, and any inquiries concerning the proposed amendments should be directed to:

State Treasurer's Office  
Attention: Mark Paxson  
915 Capitol Mall, Room 110  
Sacramento, CA 95814

**ALTERNATIVES CONSIDERED**

The Treasurer must determine that no alternative considered by the Treasurer would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Treasurer has determined that the proposed amended code:

1. Imposes no mandate on local agencies or school districts.

2. Imposes no costs or savings on any state agency.
3. Imposes no costs on any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

#### **TITLE 4. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

NOTICE IS HEREBY GIVEN that the Department of Alcoholic Beverage Control, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Department of Alcoholic Beverage Control proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment will bring the conflict of interest code current with the existing organizational structure as well as including classifications added in the Department's proposed reorganized structure.

Technical Clean up: The designation "ABC" is being added to the position Deputy Division Chief to reflect the official position title. The designation "I and II" is being added to the Licensing Representative category to show that an additional level has been added and that the reporting requirements apply to all classes of Licensing Representatives. The reporting requirement formerly for Staff Information System Analysts is being applied to all Information System Analyst Classes to reflect the specialization which has occurred within the classes.

Special Assistant to the Director: This position is being deleted from the code since the position and classification no longer exist within the Department.

Legal Analyst and Legal Assistant: These positions which serve as paralegals supporting staff counsel as well as working independently providing discovery and other material to outside counsel are being added as new positions in the Department.

All Staff Services Manager Classes: This class is being added as a new series of employees who will issue licenses under the proposed Departmental reorganization.

All Data Processing Manager Classes; All System Software Specialist Classes: These classes are being added as persons who may review and evaluate information technology procurement by the Department.

Business Services Assistant: This is a new position responsible for procurement and space management being added.

Copies of the amended code are attached.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than April 4, 2005, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than March 21, 2005, by contacting the Contact Person set forth below.

The Department of Alcoholic Beverage Control has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Department of Alcoholic Beverage Control has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Department of Alcoholic Beverage Control must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.



All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

John R. Peirce  
Chief Counsel  
3927 Lennane Dr., Suite 100  
Sacramento, CA 95834  
(916) 419-2517  
John.Peirce@abc.ca.gov

## **TITLE 4. HORSE RACING BOARD**

### **NOTICE OF PROPOSAL TO AMEND RULE 1433**

#### **APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING**

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

#### **PROPOSED REGULATORY ACTION**

The Board proposes to amend Rule 1433, Application for License to Conduct a Horse Racing Meeting. Rule 1433 incorporates by reference forms CHRB-17, Application for License to Conduct a Horse Racing Meeting, and CHRB-18, Application for License to Conduct a Horse Racing Meeting of a California Fair. CHRB-17 will be amended to require that applicants file an audited annual financial statement with the application for license. CHRB-17 and CHRB-18 will also be revised to collect information about the applicant's electronic security system and emergency lighting system in the case of the night racing industry. In addition, the applicant must identify steps it is taking to increase on-track attendance and to develop new horse racing fans. Other changes to the applications eliminate redundant words and phrases, and renumber sections as needed.

#### **PUBLIC HEARING**

The Board will hold a public hearing starting at **9:30 a.m., Thursday, April 28, 2005**, or as soon after that as business before the Board will permit, at the **Hollywood Park Race Course, Turf Club, Sunset Room (4th floor), 1050 South Prairie Avenue, Inglewood, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### **WRITTEN COMMENT PERIOD**

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written

comment period closes at **5:00 p.m. on April 4, 2005**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

#### **AUTHORITY AND REFERENCE**

Authority cited: Sections 19420 and 19440, Business and Professions (B&P) Code. Reference: 19480 and 19568, B&P Code.

B&P Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19480 and 19568, B&P Code.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The Board proposes to amend Rule 1433 by modifying forms CHRB-17 and CHRB-18, which are incorporated by reference. Item 4 of CHRB-17 will be changed to require audited financial statements from the licensee in the case of corporations and limited liability corporations (LLC). Previously, such entities were required to provide only an annual financial statement. It was found that the statements might not provide the detail needed by the Board. In addition, the item was modified to require the licensee to provide a financial statement rather than the corporation or LLC. This change was implemented because the Board does not need to see the financial statement of a parent corporation. Item 5 of CHRB-18 has been modified to eliminate estimated purse distributions for all stakes races, as it is redundant. The estimated purses for overnight stakes and non-overnight stakes should equal "all stakes" purses. Item 8 of CHRB-17 and CHRB-18 has also been amended to determine how much out-of-state sites are paying associations for simulcasting activity. In addition, under item 8 of CHRB-17 and CHRB-18, the examples for thoroughbred, quarter horse and harness simulcast races to be imported have been deleted. Few associations used the format provided, so it is unnecessary for the purposes of the application. Under item 10 of CHRB-17, and item 9 of CHRB-18, the associate judge has been eliminated because the position is not used. Under the same items, the position of "film specialist" has been added. Item 10.E. of CHRB-17 and CHRB-18 has been modified to require the number and location of cameras for dirt and turf tracks. This is to ensure associations are adequately recording each race and



are in compliance with Board Rule 1442, Photographic or Videotape Recording of Races. Item 11 of CHRB-17, and item 10 of CHRB-18, has been changed to look exclusively at security controls. The Board is always concerned with racetrack security, and is interested in what steps racing associations are taking to enhance and upgrade their security operations. While the Board has not required associations to install surveillance cameras on their grounds, it wishes to encourage discussion of such issues through the application process. Under the new item 11 of CHRB-17 and item 10 of CHRB-18, associations must include an organizational chart of their security department with names and contact telephone numbers. In addition, they must provide a written plan for enhanced security for specific types of races and for enhanced surveillance of the barn area. Associations must also describe their electronic security system and provide the location and number of video surveillance cameras for the detention barn and stable gate. Also, under item 11 of CHRB-17, night racing associations must describe their emergency lighting systems. A new item 14 has been added to CHRB-17, and a new item 13 to CHRB-18. The new item pertains to on-track attendance and fan development. The Board believes that on-track attendance and new fans are vital for the health of horse racing, so questions regarding the association's advertising budget; promotional plans; personnel and facilities devoted to new fan development; and facility improvements to benefit fans and the industry have been introduced. Under item 17 of CHRB-17, and item 16 of CHRB-18, associations are no longer required to attach a written certification that an inspection of backstretch employee housing was conducted. As Board staff is involved with such inspections, staff supplies the certification. Item 2 of the CHRB-18 no longer asks for the actual dates racing will be held. In general, fair race meetings run for no more than two weeks, so the information is not necessary (as opposed to thoroughbred, quarter horse and standardbred meetings which can run from one month to a year.) Under item 11 of CHRB-18, the name of the workers' compensation insurance carrier is no longer necessary. All fairs are self insured through California Fair Services Authority, so there is no policy number. All other changes to CHRB-17 and CHRB-18 are for purposes of style and clarity, and for renumbering where needed.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1433 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1433 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1433 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. Rule 1433 provides that associations or racing fairs wishing to conduct a horse racing meeting in the State of California must file an Application for License to Conduct a Horse Racing Meeting, CHRB-17; or an Application for License to Conduct a Horse Racing Meeting of a California Fair, CHRB-18. Forms CHRB-17 and CHRB-18 are incorporated by reference in Rule 1433.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons that the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the

modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Pat Noble, Regulation Analyst  
Telephone: (916) 263-6033

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person at the address, phone number or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of

the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

## TITLE 5. SUPERINTENDENT OF PUBLIC INSTRUCTION

### NOTICE OF PROPOSED RULEMAKING

#### Special Education—Procedural Safeguards— Hearing Officers

The Superintendent of Public Instruction (Superintendent) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PUBLIC HEARING

California Department of Education staff, on behalf of the Superintendent, will hold a public hearing beginning at **9:00 a.m. on April 6, 2005**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The Superintendent requests that persons desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the public hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on April 6, 2005**. The Superintendent will only consider written comments that are received by the Regulations Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the Superintendent's consideration should be directed to:

Debra Strain, Regulations Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, CA 95814  
E-mail: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone: (916) 319-0860  
FAX: (916) 319-0155

#### AUTHORITY AND REFERENCE

Authority: Section 56505(c), Education Code.

References: Sections 56500.1, 56501, 56502, 56504.5, 56505, 56505.1, 56505.2, and 56507, Education Code; 20 USC Sections 1400, et seq.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Individuals with Disabilities Education Act [“IDEA”] guarantees all children with special needs a “free appropriate public education” [“FAPE”] that emphasizes special education and related services designed to meet each child’s unique needs. (20 U.S.C. § 1400(D)(1)(A).) The IDEA contains numerous procedural safeguards. Most relevant for purposes of the proposed regulations, the Local Educational Agency must give parents an opportunity to present complaints regarding any matter related to the education or placement of the child, or the provision of a FAPE to the child. (20 U.S.C. § 1415(b)(6).) Upon occurrence of certain conditions, and upon the presentation of such a complaint, the parent or guardian is entitled to a due process hearing before an impartial hearing officer. (20 U.S.C. § 1415(f)(1).)

There is no federal statute or regulation that specifies a minimum set of requirements for hearing officers or that spells out necessary qualifications expected of hearing officers. Consistently, federal courts have been silent on the issue. Other than being knowledgeable in the laws governing special education and administrative hearings, California law is similarly silent.

Subdivision (c) of Section 56505 of the Education Code requires the Superintendent “establish standards for the training of hearing officers, the degree of specialization of the hearing officers, and the quality control mechanisms to be used to ensure that the hearings are fair and the decisions accurate.” The subject regulations are aimed at satisfying the statutory mandate.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The Superintendent is not aware of any cost impacts that a representative private person or

business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: The proposed amendments to the regulations do not effect small businesses because the regulations apply only to school districts and not to business practices.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Superintendent must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Superintendent, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Superintendent invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Gabriel Vivas, Deputy General Counsel  
Legal and Audits Branch, Legal Office  
1430 N Street, 5th Floor  
Sacramento, CA 95814  
Telephone: (916) 319-0860  
E-mail: [gvivas@cde.ca.gov](mailto:gvivas@cde.ca.gov)

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Natalie Vice, at (916) 319-0860.

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and



the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the Superintendent may adopt the proposed regulations substantially as described in this notice. If the Superintendent makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the Superintendent adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The Superintendent will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at

<http://www.cde.ca.gov/re/lr/rr/>.

#### REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Gabriel Vivas, Legal Office, 1430 N Street, 5th Floor, Sacramento, CA, 95814; telephone, (916) 319-0860; fax, (916) 319-0155. It is recommended that assistance be requested at least two weeks prior to the hearing.

### TITLE 14. FISH AND GAME COMMISSION

#### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 215, 220,

240, 315 and 316.5, of the Fish and Game Code and to implement, interpret or make specific Sections 200, 205, 206, 215 and 316.5, of said Code, proposes to amend subsection (b)(91.1) of Section 7.50, Title 14, California Code of Regulations, relating to the Klamath-Trinity River System.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

**Hook Size Change for Anadromous Waters of the Klamath River System:** Current regulations in subsection (b)(91.1)(A)2. of Section 7.50 define Special Fishing Methods Restrictions for all anadromous waters of the Klamath River below Iron Gate Dam. These requirements restrict the use of single barbless hooks having a shank longer than 2 inches, or any multiple barbless hook having a gap between the point and shank greater than  $\frac{3}{4}$  inch. For clarification and in the interest of consistency, the Department is recommending language from Section 2.10, Hook and Weight Restrictions be incorporated in subsection (b)(91.1)(A)2. of Section 7.50. This recommendation would eliminate the 2 inch shank restrictions on single barbless hooks and create a maximum gap for single barbless hooks of 1 inch. The proposed regulation would continue to restrict the use of any multiple hooks with a gap greater than  $\frac{3}{4}$  inch. This recommendation will make fishing gear restrictions for all anadromous waters of the Klamath River system consistent with statewide restrictions for river and streams excluding the Sacramento-San Joaquin Delta.

**Quota Adjustment:** Under current regulations in subsection (b)(91.1)(C), the allowable Chinook salmon harvest in the Klamath River system is based on spawning run-size predictions and spawning escapement goals. The harvest and the distribution of the catch are regulated by seasons, daily and weekly bag and possession limits, and area quotas and allocations.

Annual adjustment of the quota is necessary to meet natural and hatchery escapement needs for Klamath River fall-run Chinook salmon stocks, while providing equitable harvest opportunities for ocean (sport and commercial) and river (sport and tribal) users. The total river system recreational harvest of fall-run Chinook salmon is currently regulated by a quota. In 2004, the share, or impact quota, for the Klamath River basin allowable sport catch was 4,700 adult fish (15 percent of the total allowable harvest by non-tribal fisheries, including ocean-commercial, ocean-recreational and recreational-river fisheries).

Projections of the abundance of adult Klamath River fall-run Chinook salmon in the 2005 season are not yet available from the PFM. Consequently, the Department is suggesting that the Commission consider a range of 0–21,000 adult Chinook salmon quota



for the river-recreational fishery for notice requirements. The Commission also will consider modifying the share of the allowable catch allocated to the river recreational fishery (which was 15 percent in 2004). Adjustment of this share is included in the recommended 0–21,000 range of the quota. As in prior years, the river recreational fishing quota would be split evenly between the fisheries within each sub-quota areas above and below the Highway 96 bridge at Weitchpec.

**Closures to Modify Allocations:** The Department believes that the regulations should, if possible, allow fishing opportunities for adult fall-run Chinook salmon throughout the entire Klamath River Basin. Currently, the annual recreational impact quota is split evenly, with 50% of the quota allocated to the Klamath River below the Highway 96 bridge at Weitchpec and 50% to the remainder of the Klamath River Basin above the Highway 96 bridge at Weitchpec, including the Trinity River. Proposed regulations define three sub-quota areas above the Highway 96 bridge at Weitchpec. The three quotas ensure equitable harvest of adult fall-run Chinook in the upper Klamath and Trinity rivers.

The 2005 quota to be recommended by the PFMC is not currently known; however, it is expected to be similar to what was established for the 2004 season. All closures for adult Chinook salmon will be designed to maximize and distribute the harvest of adult fall-run Chinook salmon while managing the fishery within the impact quota.

The current quota system requires the Department to monitor angler harvest of adult Chinook in each sub-quota area on a real-time basis. Due to funding and personnel reductions, the Department will be unable to deploy adequate personnel to conduct harvest monitoring in the upper Klamath River above the Highway 96 bridge at Weitchpec and the Trinity River above Willow Creek for the 2005 season. Instead, the following recommendations are based on data analysis and management experiences from previous years that estimate harvest in the upper reaches of the Klamath River Basin relative to known harvest in the lower Klamath River.

**1. Klamath River Main Stem—Allowable Fishing Season from the Highway 96 Bridge at Weitchpec to 3,500 feet below Iron Gate Dam:** The Department has reviewed all available Klamath Chinook harvest and run-timing data for the Klamath River from several previous years. Based on this review, the Department has developed a Harvest Predictor Model (HPM) which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon

harvested in the lower Klamath River and the number of fish harvested in the upper river. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

**2. Upper Trinity River Main Stem—Allowable Fishing Season from Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat:** The Department has reviewed all available Trinity River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean and the Trinity River from Lewiston Dam downstream to the confluence with the Klamath River. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath and Trinity Rivers and the number of fish harvested in the upper Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

**3. Lower Trinity River Main Stem—Allowable Fishing Season from Hawkins Bar Bridge (Road to Denny) Downstream to the Mouth of the Trinity:** The Department has reviewed all available Trinity River Chinook harvest and run-timing data for this area. Based on this review, the Department has developed a HPM which incorporates creel data from the Klamath River from Iron Gate Dam downstream to the confluence with the Pacific Ocean and the Trinity River from Lewiston Dam downstream to the confluence with the Klamath River. The HPM is driven by the positive relationship between the number of fall-run Chinook salmon harvested in the lower Klamath River and the number of fish harvested in the lower Trinity River. The HPM will allow the Department to implement fishing closures to ensure that anglers do not exceed established quota targets.

**4. Maintain Daily Bag Limit, Weekly Bag Limit and Possession Limit:** The 2005 quota to be recommended by the PFMC is not currently known; however, it is expected to be similar to what was established for the 2004 season. Consequently, the Department is not recommending any changes in the daily bag, weekly bag, and possession limits for the 2005 Klamath River sport fishery.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in City Hall, Hearing Room 1, 1 Frank Ogawa Plaza, 1st floor, Oakland, California on Friday, March 18, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Secretary of State Auditorium, 1500 11th Street, Sacramento, California on Thursday, May 5, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before May 5, 2005 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than May 5, 2005, at the hearing in Sacramento, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Jon Fischer or Jon Snellstrom at the preceding address or phone number. Dr. Ed Pert, Department of Fish and Game, phone (916) 445-3616 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. The preservation of Klamath River salmon stocks is necessary for the success of lower and upper Klamath River Basin businesses which provide goods and services related to fishing. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

## TITLE 14. FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 203, 219, 220, 331, 332, 460, 1050, 1572, 3003.1, 3452, 3453, 4181, 4334, 4370, 4902 and 10502 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 203, 203.1, 207, 331, 332, 458, 459, 460, 713, 1050, 1570–1572, 3003.1, 3452, 3453, 3950, 3951, 4181, 4334, 4370, 4902, 10500 and 10502 of said Code, proposes to amend sections 360, 361, 362, 363 and 364, Title 14, California Code of Regulations, to make tag quota changes, clarifications, and urgency changes for the 2005–2006 Mammal Hunting Regulations.

Pursuant to the provisions of sections 203 and 203.1 of the Fish and Game Code, the Fish and Game Commission will consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony in adopting season, bag and possession limits, and areas of take, and prescribe the manner and means of taking as part of the 2005–2006 Mammal Hunting Regulations.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### Section 354, Title 14, CCR—Archery Equipment and Crossbow Regulations

The proposed regulation change will better define what a physical disability is in regards to disabled archers. The proposed regulation change will make these regulations consistent with other Western states' wildlife agencies. This regulation change will help reduce confusion by hunters and law enforcement personnel.

The Department has received requests from the bow hunting public to better define the language in the existing regulations regarding the definition of a disability as it applies disabled archers. The Department also wants to have a regulation that has similar language and requirements as other Western states' wildlife agencies.

#### Subsection 360(a), Title 14, CCR—Deer (A, B, C and D Zones)

Existing regulations provide for the number of license tags available for the A, B, C, and D Zones. This regulatory proposal changes the number of tags for all existing zones to a series of ranges presented in

the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

Deer: § 360(a) A, B, C, and D Zone Hunts Tag Allocations		
Zone	Current	Proposed
A	65,000	30,000–65,000
B	55,500	35,000–65,000
C	9,500	8,000–20,000
D3–5	33,000	30,000–40,000
D-6	10,000	6,000–16,000
D-7	9,000	4,000–10,000
D-8	8,000	5,000–10,000
D-9	2,000	1,000–2,500
D-10	700	400–800
D-11	5,500	2,500–6,000
D-12	950	100–1,500
D-13	4,000	2,000–5,000
D-14	3,000	2,000–3,500
D-15	1,500	500–2,000
D-16	3,000	1,000–3,500
D-17	500	100–800
D-19	1,500	500–2,000

#### Subsection 360(b), Title 14, CCR—Deer (X Zones)

Existing regulations provide for the number of hunting tags for the X zones. The proposal changes the number of tags for all existing zones to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

Deer: § 360(b) X-Zone Hunts Tag Allocations		
Zone	Current	Proposed
X-1	2,325	1,000–6,000
X-2	190	50–500
X-3a	300	150–1,500
X-3b	885	200–3,000
X-4	475	100–1,500
X-5a	85	50–300
X-5b	130	50–800
X-6a	390	100–1,200
X-6b	375	100–1,200
X-7a	150	50–600
X-7b	70	10–200
X-8	300	100–750
X-9a	775	100–1,200
X-9b	325	100–600
X-9c	325	100–1,000
X-10	400	200–600
X-12	815	100–1,500

**Subsection 360(c), Title 14, CCR—Deer (Additional Hunts)**

Existing regulations provide for the number of hunting tags for the additional hunts. The proposal changes the number of tags for existing hunts to a series of ranges presented in the following table. These

ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

<b>Deer: § 360(c) Additional Hunts Tag Allocations</b>					
Hunt	Current	Proposed	Hunt	Current	Proposed
G-1	3,000	500–5,000	M-11	20	20–200
G-3	35	5–50	MA-1	150	20–150
G-6	50	25–100	MA-3	150	20–150
G-7	20 Military *	20 Military *	J-1	25	10–25
G-8	10 Military * 10 Public	10–80 Military * and Public	J-3	15	15–30
G-9	15 Military * 15 Public	15 Military * 15 Public	J-4	15	15–50
G-10	300 Military *	100–480 Military *	J-7	15	10–30
G-11	500 Military * and DOD **	500 Military * and DOD **	J-8	15	10–20
G-12	30	25–75	J-9	5	5–10
G-13	300	50–300	J-10	10 Military * 50 Public	10–80 Military * and Public
G-19	35	10–65	J-11	40	10–50
G-21	25	25–100	J-12	10	10–20
G-37	25	25–50	J-13	40	25–100
G-38	300	50–300	J-14	30	15–75
G-39	30	5–150	J-15	10	5–30
M-3	20	20–75	J-16	75	10–75
M-4	15	5–50	J-17	25	5–25
M-5	10	5–50	J-18	75	10–75
M-6	80	25–100	J-19	25	10–40
M-7	150	50–150	J-20	20	5–20
M-8	20	5–75	J-21	50	20–80
M-9	10	5–100			

\* Specific numbers of tags are provided for military hunts through a system which restricts hunter access to desired levels and ensures biologically conservative hunting programs.

\*\* DOD = Department of Defense



**Subsection 361, Title 14, CCR—Archery Deer Hunts**

Existing regulations provide for the number of hunting tags for existing area-specific archery hunts. The proposal changes the number of tags for existing hunts to a series of ranges presented in the following table. These ranges are necessary, as the final number of tags cannot be determined until spring herd data are collected in March/April. Because severe winter conditions can have an adverse effect on herd recruitment and overwinter adult survival, final tag quotas may fall below the proposed range.

<b>Archery Deer Hunting: § 361 Tag Allocations</b>		
<b>Hunt Number (and Title)</b>	<b>Current</b>	<b>Proposed</b>
A-1 (C Zone Archery Only Tag)	2,150	150–3,000
A-3 (Zone X-1 Archery)	225	50–1,000
A-4 (Zone X-2 Archery)	10	10–200
A-5 (Zone X-3a Archery)	35	10–300
A-6 (Zone X-3b Archery)	95	25–400
A-7 (Zone X-4 Archery)	100	25–400
A-8 (Zone X-5a Archery)	25	15–100
A-9 (Zone X-5b Archery)	5	10–100
A-11 (Zone X-6a Archery)	60	25–300
A-12 (Zone X-6b Archery)	110	25–200
A-13 (Zone X-7a Archery)	15	10–200
A-14 (Zone X-7b Archery)	20	10–100
A-15 (Zone X-8 Archery)	50	25–200
A-16 (Zone X-9a Archery)	195	50–750
A-17 (Zone X-9b Archery)	300	50–600
A-18 (Zone X-9c Archery)	350	50–500
A-19 (Zone X-10 Archery)	120	25–200
A-20 (Zone X-12 Archery)	205	25–500
A-21 (Anderson Flat Archery Buck Hunt)	25	25–100
A-22 (San Diego Archery Either-Sex Deer Hunt)	1,000	100–1,000

<b>Archery Deer Hunting: § 361 Tag Allocations</b>		
<b>Hunt Number (and Title)</b>	<b>Current</b>	<b>Proposed</b>
A-24 (Monterey Archery Either-Sex Deer Hunt)	100	25–200
A-25 (Lake Sonoma Archery Either-Sex Deer Hunt)	35	20–75
A-26 (Bass Hill Archery Buck Hunt)	35	10–100
A-27 (Devil's Garden Archery Buck Hunt)	10	5–75
A-30 (Covelo Archery Buck Hunt)	40	20–100
A-31 (Los Angeles Archery Either-Sex Deer Hunt)	1,000	200–2,000
A-32 (Ventura/Los Angeles Archery Late Season Either-Sex Deer Hunt)	250	50–300

**Subsection 362, Title 14, CCR—Nelson Big-Horn Sheep**

Existing regulations provide for limited hunting of Nelson bighorn rams in six hunt zones. The proposed change adds a new hunting zone in the White Mountains area and adjusts the number of tags based on annual bighorn sheep population surveys conducted by the Department. The following proposed tag numbers were determined using the procedure described in Fish and Game Code Section 4902:

<b>HUNT ZONE</b>	<b>NUMBER OF TAGS</b>
Zone 1—Marble Mountains	3
Zone 2—Kelso Peak/Old Dad Mountains	4
Zone 3—Clark/Kingston Mountain Ranges	1
Zone 4—Orocopia Mountains	0
Zone 5—San Geronio Wilderness	1
Zone 6—Sheep Hole Mountains	2
Zone 7—White Mountains	3
Open Zone Fund-Raising Tags	2
<b>TOTAL</b>	<b>16</b>

The proposed season dates for the new general season hunt described as Zone 7—White Mountains is proposed to begin on the third Saturday in August and extending through the last Sunday in September. The proposed season dates for the fund raising tagholders who choose to hunt in Zone 7—White Mountains is

proposed to begin on the first Saturday in August and extending through the last Sunday in September. These seasons are earlier than for other bighorn sheep hunt zones because this hunt is at higher elevations, and the season is timed to provide for the optimum hunting opportunity for the White Mountains area.

Fund raising tagholders are proposed to hunt only in hunt zones 1, 2, 5, 6, and 7. They are precluded from hunting in zones 3 and 4 because the estimated number of mature rams in zones 3 and 4 would not support the harvest of two additional rams and still comply with the statutory provision of not more than 15 percent of the mature rams in any zone are taken.

### Subsection 363, Title 14, CCR—Pronghorn Antelope

Existing regulations provide for the number of pronghorn antelope hunting tags for each hunt zone. This proposed regulatory action would provide for tag allocation ranges for most hunt zones pending final tag quota determinations based on winter survey results that should be completed by March of 2005. The final tag quotas will provide for adequate hunting opportunities while allowing for a biologically appropriate harvest of bucks and does in specific populations. The proposed tag allocation ranges for most hunt zones are as set forth below.

Pronghorn Antelope Tag Allocation Ranges—2005						
Hunt Area	Archery-Only Season		General Season			
			Period 1		Period 2	
	Buck	Doe	Buck	Doe	Buck	Doe
	Zone 1—Mount Dome	1–10	0–3	3–60	0–20	0
Zone 2—Clear Lake	1–10	0–3	5–80	0–25	0	0
Zone 3—Likely Tables	2–20	0–7	25–150	0–50	25–130	0–50
Zone 4—Lassen	2–20	0–7	25–150	0–50	25–150	0–50
Zone 5—Big Valley	1–15	0–5	3–150	0–50	0	0
Zone 6—Surprise Valley	1–10	0	3–25	0–7	0	0
Big Valley Junior Hunt	N/A		1–15 Either-Sex		0	
Lassen Junior Hunt	N/A		1–15 Either-Sex		0	
Surprise Valley Junior Hunt	N/A		1–4 Either-Sex		0	
Fund-Raising Hunt	N/A		1–10 Buck			

### Subsection 478.1, Title 14, CCR—Bobcat Hunting Tag Fees

Existing regulations provide fees for bobcat hunting tags Pursuant to Section 713 of the Fish and Game Code and Section 699, Title 14, these fees are adjusted annually based on a calculated cost-of-living adjustment. The proposed changes would revise fees listed in Subsection (a) of Section 478.1 for consistency with adjustments made pursuant to Section 713, Fish and Game Code and Section 699, Title 14.

### Subsection 479, Title 14, CCR—Bobcat Pelts

Existing regulations provide fees for bobcat pelt shipping tags. Pursuant to Section 713 of the Fish and Game Code, and Section 699, Title 14, these fees are adjusted for cost of goods and services based on a calculated cost-of-living adjustment. The proposed changes would revise fees listed in Subsection (c)(4) of Section 479 for consistency with adjustments made pursuant to Section 713 of the Fish and Game Code and Section 699, Title 14.

### Subsection 708, Title 14, CCR—Big Game License Tag, Application, Distribution and Reporting Procedures

Existing regulations reference the 2004/2005 hunting license year and include outdated revision dates on

hunting application forms for deer, Nelson bighorn sheep, antelope, elk and bear. Leaving these outdated references will create an inconsistency between the actual forms and regulatory language. The proposed changes would update references to the application forms in order to reflect the new license year and form revision dates, thereby eliminating any confusion.

Existing regulations provide fees for various big game applications and tags including: deer tag exchange fees; and application and tag fees for bighorn sheep, antelope and elk. Pursuant to Section 713, Fish and Game Code, these fees are adjusted annually based on a calculated cost-of-living adjustment. The proposed changes would update fees listed in Section 708 for consistency with Section 713 adjustments.

Existing regulations require big game tag applicants be 12 years of age at the time of application (16 years of age for sheep), which causes confusion for the public and results in a number of junior hunters applying for the drawing, being rejected based upon the day they applied rather than the license validity date. The proposed change would require big game drawing applicants to be 12 years of age (16 years of age for sheep) on or before July 1 of the license year for which they are applying.

Existing regulations require alternate elk and antelope applicants to submit tag fee payments at the same time as successful applicants. This requires hunters to pay for a tag they probably will not receive. In addition, the department must deposit the tag fees received and process refunds for alternates not selected for a tag. The proposed change will allow the department to collect tag fees from alternates, only if a tag will be awarded.

Existing regulations require applicants to notify the department of corrections to their name, address and hunter identification number; however, date of birth was inadvertently omitted. Without this change the department may be unable to identify hunters and track and maintain preference points accurately. The proposed change will require hunters to notify the department in writing if their date of birth is incorrect.

Existing regulations prohibit hunters from applying for a buck antelope tag if they were drawn for a buck antelope tag in the previous 10 years. This regulation was created prior to the preference point drawing system to help ensure that hunters who received a buck antelope tag did not receive another tag, before the hunters who had not been drawn. As a result of the preference point drawing system this regulation is no longer needed since the estimated wait period for a hunter drawn under a preference point system may exceed the 10-year period.

Existing regulations specifies that big game applications must be available at license agents and regular department offices, which is inconsistent with current practice. There are a number of license agents that do not sell hunting items and some department offices do not sell licenses. The proposed change will remove the reference requiring these items be available at all license agents and department offices and will allow the department to designate the license agents and department offices where these items are available.

Existing regulations requires hunters to mail their applications for leftover drawing tags to the department's License and Revenue Branch, in Sacramento, which limits the accessibility for hunters to obtain these tags. Historically, there are several area-specific archery hunts that do not fill in the drawing each year which could be obtained from other designated department offices. The proposed change will allow the department to specify where leftover tags may be obtained.

Existing regulations specify the name of the hunter's first deer tag application of the license year as a one-deer tag application. This name was inherited from the early 1970's when a hunter purchased a one-deer tag application for one deer tag and a two deer tag application for two deer tags. However, in the late 1980's the license tag structure was changed requiring hunters to purchase two deer tag applications

(a one-deer and a second-deer) if they wanted two deer tags. As a result of this change the name of the two deer tag application was changed to a second-deer tag application. However, the name of the one-deer tag application was never changed to a first-deer tag application. The proposed change will modify the name of the one-deer tag application to a first-deer tag application.

Existing regulations require the department to run the big game drawing within 10 calendar days of the drawing deadline. Leaving the date could increase the department's administrative costs to run the drawing within 10 calendar days. The proposed change will modify the days to business days rather than calendar days.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Secretary of State Auditorium, 1500 11th Street, Sacramento, California on Thursday, May 5, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted at least ten days before the discussion and adoption hearing on May 5, 2005, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than May 5, 2005, at the hearing in Sacramento, CA. All written comments must include the true name and mailing address of the commenter.

A draft environmental document associated with the proposed regulatory actions regarding Big Horn Sheep was filed with the Office of Planning and Research, and made available for comment commencing January 20, 2005. The Commission will certify this document at the May 5, 2005 meeting in Sacramento. Written comments on this document may be submitted to the Commission office (address given herein). This draft environmental document is available for review at the Commission office and at the Department of Fish and Game's, Wildlife Programs Branch office in Sacramento. Copies of the document is also available for review at the Department offices in Redding, Rancho Cordova, Yountville, Fresno, Long Beach, Bishop, Eureka, Belmont, Monterey, Ontario and San Diego. **NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENT WILL BE ACCEPTED AFTER 5:00 P.M. ON MARCH 6, 2005.** All other environmental documents relating to mammal hunting were certified on April 24, 2004. There are no changes to these documents.

The regulations as proposed in ~~strikeout~~-underline format, as well as initial statements of reasons including environmental considerations and all information upon which the proposal is based, are on file and available for public review from Jon Fischer, Assistant Executive Director, Fish and Game Commis-

sion, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Jon Fischer or Jon Snellstrom at the preceding phone number. John Carlson, Acting Chief, Wildlife Programs Branch, Department of Fish and Game, 916 653-7203, has been designated to respond to questions on the substance of the proposed regulations. Copies of the initial statements of reasons, including the regulatory language, may be obtained from the above address. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### **AVAILABILITY OF MODIFIED TEXT**

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein.

If the regulatory proposals are adopted, the final statements of reasons may be obtained from the address above when they have been received from agency program staff.

#### **IMPACT OF REGULATORY ACTION**

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

##### **Section 354, Archery Equipment and Crossbow Regulations**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California

businesses to compete with businesses in other states. Because the proposed change clarifies the regulation, it is economically neutral.

##### **Subsection 360(a), Deer: A, B, C, and D Zone Hunts**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

##### **Subsection 360(b), Deer: X-Zone Hunts**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

##### **Subsection 360(c), Deer: Additional Hunts**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

##### **Section 361, Archery Deer Hunting**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas for existing hunts. Given the number of tags available and the area over which they are distributed, these proposals are economically neutral to business.

##### **Section 362, Nelson Bighorn Sheep**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Because the proposed change clarifies the regulation, it is economically neutral.

##### **Section 363, Pronghorn Antelope**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California



businesses to compete with businesses in other states.

**Section 478.1, Bobcat Hunting Tag Fees**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action provides consistency with the Fish and Game Code; adjusts fees pursuant to Section 713, Fish and Game Code and Section 699, Title 14; and is economically neutral to businesses.

**Section 479, Bobcat Pelts**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action provides consistency with the Fish and Game Code, adjusts fees pursuant to Section 713, and is economically neutral to businesses.

**Section 708, Big Game License Tag, Application, Distribution and Reporting Procedures**

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action updates administrative procedures, form references and revision dates for clarification within the regulation, provides consistency with Fish and Game Code; adjusts fees pursuant to Section 713, and is economically neutral to businesses. Given the minor nature of the change in pronghorn tags that are proposed, this proposal is economically neutral to business.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/ Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

**EFFECT ON SMALL BUSINESS**

It has been determined that the adoption of these regulations may affect small business.

**CONSIDERATION OF ALTERNATIVES**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**TITLE 14. FISH AND  
GAME COMMISSION**

**NOTICE OF PROPOSED CHANGES  
IN REGULATIONS**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205, 220, 240, 2084 and 7891 of the Fish and Game Code and to implement, interpret or make specific Sections 200, 202, 205 and 2084, of said Code, proposes to amend Section 27.80, Title 14, California Code of Regulations, relating to Ocean Salmon Sport Fishing.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean fishing regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan.

The PFMC is expected to adopt regulation recommendations, similar to recent years, for the recreational ocean salmon fisheries in Federal waters (3 to 200 miles offshore) off the states of Washington, Oregon, and California for 2005. The various alternatives the PFMC will examine in the process of adopting the management options on March 11, 2005, for public review may include:

- 1. the minimum size of salmon that may be retained;
- 2. the number of rods anglers may use (e.g., one, two, or unlimited);

3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

The final regulation recommendations will be made by the PFMC on April 8, 2005. Upon approval of the PFMC's management recommendations by the Secretary of Commerce, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (0 to 3 miles offshore) to those agreed upon by the PFMC; otherwise preemption of State regulatory authority by the Secretary of Commerce may occur.

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in City Hall, Hearing Room 1, 1 Frank Ogawa Plaza, 1st Floor, Oakland, California on Friday, March 18, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Secretary of State Auditorium, 1500 11th Street, Sacramento, California on Thursday, May 5, 2005, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted at least ten days before the May meeting, at the address given below, or by fax at (916) 653-5040, or by e-mail to [FGC@dfg.ca.gov](mailto:FGC@dfg.ca.gov), but must be received no later than May 5, 2005, at the hearing in Sacramento, CA. All written comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Robert R. Treanor, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to Jon Fischer or Jon Snellstrom at the preceding address or phone number. Ms. Patricia Wolf, Department of Fish and Game, phone (562) 342-7108 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory

language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Regulations close to the status quo are expected to be adopted.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None
- (c) Cost Impacts on a Representative Private Person or Business: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/ Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None
- (f) Programs mandated on Local Agencies or School Districts: None
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None
- (h) Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

#### CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

## TITLE 15. DEPARTMENT OF CORRECTIONS

### DIVISION 3. CRIME PREVENTION AND CORRECTIONS

**NOTICE IS HEREBY GIVEN** that the Director of the Department of Corrections (CDC), pursuant to rulemaking authority granted by Penal Code (PC) Section 5058.3 in order to implement, interpret and make specific PC Section 5054, proposes to adopt section 3436 in the California Code of Regulations (CCR), Title 15, Division 3, relating to Limited Term Light Duty Assignments.

#### PUBLIC HEARING

Date and Time: April 7, 2005, 9:00–11:00 a.m.  
 Place: Aerojet  
 1900 Alabama Avenue, Room JAD 3  
 Rancho Cordova, CA 95742  
 Purpose: To receive comments about this action.

#### PUBLIC COMMENT PERIOD

The public comment period will close April 7, 2005, at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or e-mail) regarding the proposed changes. All comments received regarding Limited Term Light Duty Assignments will be merged with the public comments received during this 45-day comment period. To be considered by the Department,

comments must be submitted to the Department of Corrections, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 358-2636; or by e-mail at [RPMB@executive.corr.ca.gov](mailto:RPMB@executive.corr.ca.gov) before the close of the comment period.

#### CONTACT PERSON

Please direct any inquiries regarding this action to:

**T. Lockwood, Chief (A)**  
**Regulation and Policy Management Branch**  
**Department of Corrections**  
**P.O. Box 942883**  
**Sacramento, CA 94283-0001**  
**Telephone (916) 358-1655**

Back-up contact person:

**C. Sunley**  
**Regulation and Policy Management Branch**  
**Telephone (916) 358-2477**

Questions regarding the substance of the proposed regulatory action should be directed to:

**R. Lee, Analyst**  
**Office of Environmental Health and Safety**  
**Telephone (916) 322-1868**

#### LOCAL MANDATES

This action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Government Code Section 17561.

#### FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *None*
- Other non-discretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

#### EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

#### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.



#### EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

#### ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION

The Department has determined that the proposed regulation will have no effect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

#### CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

#### AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

The Department has prepared and will make available the text and the Initial Statement of Reasons of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, Initial Statement of Reasons, and the Notice of Proposed Action will also be made available on the Department's website

<http://www.cdc.state.ca.us>.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

#### AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regula-

tion text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

- Adopts emergency regulations filed with OAL regarding Limited Term Light Duty for employees in order to comply with OAL determination letter No. 9 (2001) requiring regulations for the Limited Term Light Duty process including specific maximum 60-day duration.
- Adopts emergency regulations filed with OAL regarding Limited Term Light Duty for employees when placed in vacant budgeted positions in the employees current bargaining unit in order to comply with the decision by the Superior Court of California, County of Los Angeles (Department of Administration, Case Number 99-12-0067).
- Adopts emergency regulations filed with OAL regarding Limited Term Light Duty restricting employees to be either placed on Limited Term Light Duty in their current positions or placing the employee in vacant budgeted positions in order for the Department to comply with the Governor's budget.

#### TITLE 16. BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

NOTICE IS HEREBY GIVEN that the **Board of Vocational Nursing and Psychiatric Technicians** (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Department of Consumer Affairs, Hearing Room, Room 100, 400 R Street, Sacramento, CA 95814 at 9:00 A.M., on Thursday, April 7, 2005**. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 P.M. on Wednesday, April 6, 2005,



or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2854 and 4504 of the Business and Professions (B&P) Code; and 6253.4 and 6254 of the Government Code; and to implement, interpret or make specific sections 2875, 2876, 2878, 2878.1, 2878.5, 4520, 4521, and 4521.2 of the B&P Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR) as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pursuant to B&P section 2854 (Vocational Nursing); and B&P Code section 4504 (Psychiatric Technicians), the Board may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry out the provisions of these chapters.

##### 1. Vocational Nursing Regulations

Consumer Complaint Disclosure—Adopt Section 2524.1.

The Public Records Act (California Government Code Section 6250 et seq.), provides the public a distinct right to access information in the government's possession. However, unconditional access is not authorized. Specific information pertaining to complaints and relevant investigations alleging misconduct by licensees are exempt from disclosure.

The proposed regulations set forth specific language relative to the disclosure of information regarding complaints involving licensed vocational nurses. The proposed language incorporates the Board's "*Consumer Complaint Disclosure Policy*" in regulations.

##### 2. Psychiatric Technician Regulations

Consumer Complaint Disclosure—Adopt Section 2579.11.

The Public Records Act (California Government Code Section 6250 et seq.), provides the public a distinct right to access information in the government's possession. However, unconditional access is not authorized. Specific information pertaining to

complaints and relevant investigations alleging misconduct by licensees are exempt from disclosure.

The proposed regulations set forth specific language relative to the disclosure of information regarding consumer complaints involving psychiatric technicians. The proposed language incorporates the Board's "*Consumer Complaint Disclosure Policy*" in regulations.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses. The proposed regulations do not alter staffing or equipment needs in any small business.

#### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective and less burdensome to affected private persons than the proposal described in this Notice.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

AVAILABILITY AND LOCATION OF  
THE FINAL STATEMENT OF REASONS  
AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Angela Hole, Administrative  
Assistant  
Address: 2535 Capitol Oaks Drive,  
Suite 205  
Sacramento, CA 95833  
Telephone No.: (916) 263-7848  
Fax No.: (916) 263-7859  
E-Mail Address: Angela\_Hole@dca.ca.gov

The backup contact person is:

Name: Cheryl Anderson, Nursing  
Education Consultant  
Address: 2535 Capitol Oaks Drive,  
Suite 205  
Sacramento, CA 95833  
Telephone No.: (916) 263-7839  
Fax No.: (916) 263-7859  
E-Mail Address: Cheryl\_Anderson@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at [www.bvnpt.ca.gov](http://www.bvnpt.ca.gov).

**TITLE 16. BOARD OF  
VOCATIONAL NURSING AND  
PSYCHIATRIC TECHNICIANS**

NOTICE IS HEREBY GIVEN that the **Board of Vocational Nursing and Psychiatric Technicians** (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to

the action proposed at a hearing to be held at the **Department of Consumer Affairs, Hearing Room, Room 100, 400 R Street, Sacramento, CA 95814 at 9:00 A.M. on Thursday, April 7, 2005.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under **Contact Person** in this Notice, must be received by the Board at its office not later than 5:00 P.M. on Wednesday, April 6, 2005, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 125.9, 148, 2854, and 4504 of the Business and Professions (B&P) Code, and to implement, interpret or make specific sections 101.6, 108, 2859, 2875, 2876, 2878, 2878.1, 2878.5, 4502, 4503, 4517, 4520, 4521, and 4521.2 of said Code, the Board is considering changes to Division 25 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

Pursuant to B&P Code section 2854 (Vocational Nursing); and B&P Code section 4504 (Psychiatric Technicians), the Board may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry out the provisions of these chapters.

**1. Vocational Nursing Regulations**

Mandatory Reporting—Adopt Sections 2520.4 and 2520.5; and Amend Sections 2518.6, 2523, 2523.1, 2523.2, 2523.4, 2523.5, and 2523.6.

New legislation set forth in Chapter 640, Statutes of 2003 (SB 358, Figueroa), establishes mandatory reporting requirements for licensed vocational nurses (LVNs) and their employers effective January 1, 2004. This proposal will implement and make specific those requirements.

Additionally, pursuant to new statutory requirements set forth in Senate Bill 362 (Figueroa, Chapter 788, Statutes of 2003), the proposed regulatory language increases the amount of civil penalty that may be assessed for licensed vocational nurses under specified circumstances.

**2. Psychiatric Technician Regulations**

Mandatory Reporting—Adopt Sections 2577.5 and 2577.6; and Amend Sections 2576.6, 2579.2, 2579.3, 2579.4, 2579.6, 2579.7, and 2579.8.

New legislation set forth in Chapter 640, Statutes of 2003 (SB 358, Figueroa), establishes mandatory reporting requirements for licensed vocational nurses (LVNs) and their employers effective January 1, 2004. This proposal will implement and make specific those requirements.

Additionally, pursuant to new statutory requirements set forth in Senate Bill 362 (Figueroa, Chapter 788, Statutes of 2003), the proposed regulatory language increases the amount of civil penalty that may be assessed for psychiatric technicians under specified circumstances.

**FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: It is anticipated that there will be additional expenditures of approximately \$726,000 in the 2006/07 State Fiscal Year (\$613,000 Vocational Nursing Program; \$113,000 Psychiatric Technician Program) and \$1,244,000 in the 2007/08 State Fiscal Year (\$1,095,000 Vocational Nursing Program; \$149,000 Psychiatric Technician Program).

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

**EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulations would not affect small businesses. The

proposed amendments do not alter staffing or equipment needs in any small business.

**CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective and less burdensome to affected private persons than the proposal described in this Notice.

**INITIAL STATEMENT OF REASONS  
AND INFORMATION**

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2535 Capitol Oaks Drive, Suite 205, Sacramento, California 95833.

**AVAILABILITY AND LOCATION OF THE  
FINAL STATEMENT OF REASONS  
AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

**CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Angela Hole, Administrative Assistant  
Address: 2535 Capitol Oaks Drive, Suite 205  
Sacramento, CA 95833  
Telephone No.: (916) 263-7848  
Fax No.: (916) 263-7859  
E-Mail Address: Angela\_Hole@dca.ca.gov

The backup contact person is:

Name: Cheryl Anderson, Nursing Education Consultant  
Address: 2535 Capitol Oaks Drive, Suite 205  
Sacramento, CA 95833



Telephone No.: (916) 263-7839

Fax No.: (916) 263-7859

E-Mail Address: Cheryl\_Anderson@dca.ca.gov

**WEBSITE ACCESS**

Materials regarding this proposal can be found at [www.bvnpt.ca.gov](http://www.bvnpt.ca.gov).

**TITLE 16. STRUCTURAL  
PEST CONTROL BOARD**

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Sheraton Pasadena, 2303 East Cordova Street, Pasadena, CA, at 9:00 AM on April 8, 2005. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Structural Pest Control Board at its office not later than 5:00 PM on April 7, 2005 or must be received by the Structural Pest Control Board at the hearing. The Structural Pest Control Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

**AUTHORITY AND REFERENCE**

Pursuant to the authority vested by Sections 8525 of the Business and Professions Code, and to implement, interpret or make specific sections 125.9, 148, 8506.2, 8516, 8516.2, 8518, 8525, 8538, 8560, 8564.5, 8593, 8610, 8611, 8614, 8615, 8644, 8643, 8646, 8647, 8650 and 8674 of said Code, the Structural Pest Control Board is considering changes to Division 19 of Title 16 of the California Code of Regulations as follows:

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

**1. Amend 1914 Name Style—Company Registration**

Section 1914 of the California Code of Regulations requires in part that the Structural Pest Control Board not issue a company registration in a name style that it deems to be confusingly similar to the name style of another registered company.

The Board proposes to amend regulation to eliminate this requirement.

**2. Amend 1918 Supervision of Registered Companies and Branch Offices**

Sections 8506.2, 8610 and 8611 of the Business and Professions Code refer to the responsibility of qualifying managers and branch office supervisors to be available to supervise the employees of a registered structural pest control company. Section 1918 of the California Code of Regulations defines “supervise” as actual on-site supervision.

The Board proposes to amend section 1918 to re-state the provisions for supervision of companies with more than one location and to clarify the responsibilities and liabilities of qualifying manager(s) and supervisor(s).

**3. Amend 1920 Citation and Fines**

Section 1920 provides the guidelines for which a licensee may contest a citation and fine by the Board. Currently, if the Board modifies a citation after the informal conference, the original citation is withdrawn and a new citation is issued. As the regulation is written, it allows the licensee to request another informal conference on essentially the same citation that had been previously considered in the first informal conference.

This proposal would specify that a second informal conference for a modified citation would not be allowed.

**4. Amend 1948 Fees**

Business and Professions Code section 8564.6 requires that an applicant for an applicator’s license submit a prescribed fee. Code Section 8674 sets forth the fees imposed for the issuance of an applicator’s license and the renewal of an applicator’s license. Currently there is no existing regulation that specifies a fee for the applicator’s license or applicator’s license renewal.

This proposal would place into regulation the specific fee for an applicator’s license and applicator’s license renewal.

**5. Amend 1950 Continuing Education Requirements**

Section 8593 of the Business and Professions Code states as a condition to the renewal of an applicator’s license, the applicator must complete courses of continuing education. Currently the regulations do not specify the exact continuing education requirements when renewing an applicator’s license.

The proposal would specify the number and type of continuing education hours required to renew an applicator’s license.



**6. Amend 1983 Handling, Use, and Storage of Pesticides**

References to bait stations in section 1983 can now be misinterpreted to mean something other than rodenticide or avicide bait stations, which the regulation was originally intended to address, due to recent development and use of termite bait stations, as well as bait stations for other areas of structural pest control.

The proposal would clarify that section 1983(i) references rodenticide and avicide bait stations rather than the newly developed termite bait stations and general pest control bait stations.

**7. Amend 1991 Report Requirements**

Existing regulation gives specific recommendations for corrective measures regarding the restoring of any wooden decks, wooden stairs and wooden landings in exterior exposure where they are unable to serve their intended purpose.

This regulatory proposal would delete specific recommendations relative to wooden decks, wooden stairs and wooden landings as this subject is addressed in existing California Code of Regulation Section 1991(a)(5) regarding replacement and reinforcement of structural members.

**8. Amend 1993 and 1998 Report Requirements**

Senate Bill 1307 (Chapter No. 983) amended sections of the Business and Professions Code to eliminate the requirement for registered companies to file inspection reports and notices of work completed with the Structural Pest Control Board. The bill created a requirement for registered companies to report and file with the Board addresses of properties inspected and the addresses of properties upon which work is completed.

This regulatory proposal would eliminate references to filing of inspection reports and notices of work completed and would require structural pest control companies to file the address of properties inspected and the addresses of properties upon which work has been completed.

**FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic

impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Structural Pest Control Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Board has initially determined there will be minor cost to pest control Applicator licensees, as they will be required to submit fees for their initial license and its renewal, and fees to course providers of continuing education courses required for license renewal.

Effect on Housing Costs: None

**EFFECT ON SMALL BUSINESS**

Section 1914 will have no affect on small businesses because the proposal will eliminate the Board's responsibility of determining what is and what is not confusingly similar in regards to name styles, which is subjective.

Section 1918 will have no affect on small businesses because actual "on-site supervision" is not practical for companies with more than one locaiton. The proposal will allow the designation of an individual or individuals licensed as an operator or a field representative to supervise the company, while remaining under direct supervision of the qualifying manager(s) or supervisor(s).

Section 1920 will have no affect on small businesses because the proposal will only impact cited licensees from requesting more than one informal conference in regards to a single citation.

Section 1948 will have no affect on small businesses because the proposal will impact the applicant applying for an Applicator License by requiring the payment of a license/renewal fee, which is consistent with current statutes.

Section 1950 will have no affect on small businesses because the proposal will require licensed Applicators to complete a specified number of continuing education hours per renewal cycle. The licensed applicator may be impacted for continuing education course fees unless a current employer offers courses to employees at no cost.

Section 1983 will have no affect on small business because this proposal only clarifies the difference between termite bait stations and other types of bait stations.

Sections 1993, and 1998 will have no affect on small businesses because both proposals eliminate the requirement that pest control companies submit wood destroying pest and organisms inspection reports and

the notice of work completed and not completed forms to the Board as a result of Senate Bill 1307, which amended Business and Professions Code section 8516 and became effective January 1, 2000. Therefore, pest control companies have been complying with statute since January 1, 2000. The amendment to section 1998 clarifies Business and Professions Code section 8516 in that pest control companies must prepare and provide the inspection report and notice of work completed and not completed reports to the homeowner or his/her designated agent, which pest control companies currently practice.

Section 1991(a)(13) will have no affect on small businesses because the proposed amendment serves to delete duplicate language in the California Code of Regulations.

#### **CONSIDERATION OF ALTERNATIVES**

The Structural Pest Control must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Structural Pest Control Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Structural Pest Control Board at 1418 Howe Avenue Suite 18, Sacramento, California 95825.

#### **AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below.

#### **CONTACT PERSON**

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Barbara Howe  
Address: 1418 Howe Avenue, Suite 18  
Sacramento, CA. 95825  
Telephone No.: (916) 561-8718  
Fax No.: (916) 263-2469  
E-Mail Address: Barbara\_Howe@dca.ca.gov  
The backup contact person is:  
Name: Susan Saylor  
Address: 1418 Howe Avenue, Suite 18  
Sacramento, CA. 95825  
Telephone No.: (916) 561-8700  
Fax No.: (916) 263-2469  
E-Mail Address: Susan\_Saylor@dca.ca.gov

#### **WEBSITE ACCESS**

Materials regarding this proposal can be found at [www.pestboard.ca.gov](http://www.pestboard.ca.gov)

### **TITLE 21. DEPARTMENT OF TRANSPORTATION**

#### **NOTICE OF PROPOSED RULEMAKING**

The Department of Transportation ("Department") proposes to amend, repeal, and adopt the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

#### **PROPOSED REGULATORY ACTION**

The Department proposes to amend all sections within Chapters 4 and 5 of Title 21, Division 2.5 of the California Code of Regulations; to repeal some unnecessary sections; to adopt new sections that are necessary to implement new statutes; to reorganize some sections for clarity; and revise associated forms. These chapters establish rules and procedures for implementation and administration of the California Aid to Airports Program (Chapter 4) and the California Airport Loan Program (Chapter 5) pursuant to Public Utilities Code (PUC) sections 21602 and 21680-21688.

#### **PUBLIC HEARING**

The Department will hold a public hearing starting at 10:00 a.m. on April 5, 2005, at 1120 N Street, Sacramento, California. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It's requested, but not required, that persons making oral comments at a hearing submit a written copy of their testimony at the hearing.

**WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action to Betsy Eskridge of the Department at the addresses listed under Contact Person in this Notice. Written comments may be sent by mail, facsimile, or email. The written comment period closes at 5:00 p.m. on April 5, 2005. Comments received after this date and time will not be considered.

**AUTHORITY AND REFERENCE**

PUC section 21243 authorizes the Department to make and amend regulations and establish minimum standards that implement, interpret or make specific PUC sections 21602 and 21680–21688. PUC section 21682 requires the Department to adopt rules and regulations specific to that section. PUC section 21706 requires that projects submitted for funding pursuant to these regulations be consistent with the California Aviation System Plan.

**INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW**

Existing regulations in Title 21, Chapters 4 and 5, establish rules and procedures for implementation and administration of the California Aid to Airports Program (Chapter 4) and the California Airport Loan Program (Chapter 5) pursuant to Public Utilities Code sections 21602 and 21680–21688.

The Department's proposed amendments, additions, deletions, and reorganization of these regulations would do the following:

- consolidate and expand definitions section for clear and consistent terminology
- amend some procedures and add others to implement new legislation
- delete sections that are no longer necessary
- reorganize sections for clarity and consistency of implementation
- establish procedures to implement PUC section 21683.1
- establish procedures to implement PUC section 21706
- add forms in an appendix

**DISCLOSURES REGARDING  
THE PROPOSED ACTION**

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency of school district which must be reimbursed in accordance with Government Code section 17561: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings in federal funding to the state: None.

The Department has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Assessment regarding the creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will neither: (1) create nor eliminate jobs within California, (2) create new business or eliminate existing businesses within California, nor (3) affect the expansion of businesses currently doing business in California.

Small Business Determination: The Department has determined that the proposed regulations do not affect small businesses since the regulations do not change whether a small business is legally required to comply with the regulation or is legally required to enforce the regulation or derives a benefit from the regulation or incurs a detriment from the enforcement of the regulation.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSON OR BUSINESS**

Department of Transportation is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**CONTACT PERSON**

Questions concerning the substance of this proposed rulemaking and any communications required by this Notice should be directed to Betsy Eskridge, Division of Aeronautics MS #40, Department of Transportation, using one of the following addresses or phone numbers:

mailing address: P.O. Box 942874  
Sacramento, CA 94274-0001

office address: 1120 N Street, Room 3300  
Sacramento, CA 95814



overnight mail  
shipping address: 1415 11th Street  
Sacramento, CA 95814

Telephone: (916) 654-5203

Facsimile: (916) 653-9531

Email: Elizabeth.Eskridge@dot.ca.gov

The back-up contact person is Austin Wiswell, Chief of the Division of Aeronautics, at the addresses and facsimile above or by phone: (916) 654-5470 or email Robert.A.Wiswell@dot.ca.gov.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office address above. To schedule a review of the rulemaking file, contact the person listed under Contact Person above. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice; the proposed text of the regulations; the initial statement of reasons; Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, January 1975; and Federal Aviation Administration Advisory Circular 150/5300-13, Airport Design, 9/29/89 including through Change 8, 9/30/04. Copies of these may be obtained by contacting the Contact Person at the addresses and phone numbers listed above. Text of this Notice; the proposed regulations; and the initial statement of reasons can be found by clicking on the "Proposed Regulations" icon at

<http://www.dot.ca.gov/aeronautics>.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly indicated—shall be made available to the public for at least 15 days prior to the date on which the Department adopts the regulations. Requests for copies of any modified regulations should be sent to the Contact Person listed above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, you may obtain a copy of the Final Statement of Reasons by submitting a written request to the Contact Person listed above.

## TITLE 22. OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

### NOTICE OF PROPOSED RULEMAKING

#### PROPOSED ADOPTION OF SECTION 12900 USE OF SPECIFIED METHODS OF DETECTION AND ANALYSIS FOR LISTED CHEMICALS FOR VOLUNTARY COMPLIANCE TESTING SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986

NOTICE IS HEREBY GIVEN that the Office of Environmental Health Hazard Assessment (OEHHA) proposes to adopt a new regulation in Title 22, California Code of Regulations, Section 129001<sup>1</sup>.

#### PUBLIC PROCEEDINGS

A public hearing will be held on **April 4, 2005**, at which time any person may present statements or arguments orally or in writing relevant to the action described in this notice. The public hearing will commence at 10:00 a.m. in the Coastal Hearing Room, California Environmental Protection Agency Building, 1001 I Street, 2nd Floor, Sacramento, California and will last until all business has been conducted, or until 5:00 p.m.

Any written statements or arguments regardless of the form or method of transmission must be received by OEHHA by 5:00 p.m. on **April 4, 2005**, which is hereby designated as the close of the written comment period.

Written comments regarding this proposed action may be sent by mail or by facsimile addressed to:

Cynthia Oshita  
Office of Environmental Health  
Hazard Assessment  
Proposition 65 Implementation Program  
P.O. Box 4010  
Sacramento, California 95812-4010  
Fax No.: (916) 323-8803  
Telephone: (916) 445-6900

Comments sent by courier should be delivered to:

Cynthia Oshita  
Office of Environmental Health Hazard Assessment  
1001 I Street, 19th Floor  
Sacramento, California 95814

Comments may also be transmitted via email addressed to: ([coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov)).

It is requested, but not required, that written statements or arguments be submitted in triplicate.

If you have special accommodation or language needs, please contact Cynthia Oshita at

<sup>1</sup> All further references are to Title 22 of the California Code of Regulations, unless otherwise indicated.



(916) 445-6900 or [coshita@oehha.ca.gov](mailto:coshita@oehha.ca.gov) by March 21, 2005. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

#### CONTACT

Inquiries concerning the substance and processing of the action described in this notice may be directed to Cynthia Oshita, in writing at the address given above, or by telephone at (916) 445-6900. Ms. Susan Luong is a back-up contact person for inquiries concerning processing of this action and is available at the same telephone number.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65 (hereinafter referred to as "Proposition 65" or "the Act"), was enacted as a voters' initiative on November 4, 1986 and codified at Health and Safety Code section 25249.5 et seq. The Office of Environmental Health Hazard Assessment (OEHHA), within the California Environmental Protection Agency is the state entity responsible for the implementation of the Act. OEHHA has the authority to promulgate and amend regulations to further the purposes of the Act. Included among the provisions of Proposition 65 is a prohibition against contaminating sources of drinking water with chemicals known to the state to cause cancer or reproductive harm and a requirement that businesses provide warnings before exposing individuals to chemicals known to the state to cause cancer or reproductive harm. Health and Safety Code section 25249.11, subsection (c) defines "significant amount" of a listed chemical to mean "any detectable amount," other than an amount which poses no significant risk for carcinogens, or would have no observable effect assuming exposure at one thousand times the level in question with regard to chemicals known to cause reproductive harm. The Act, however, does not specify what analytical test methods must be used to determine whether a discharge, release, or exposure contains a detectable amount of a chemical listed under the Act.

Section 12901 was originally adopted in 1989 to clarify and make more specific what is meant by "any detectable amount." In recent years, litigants and courts have had difficulty interpreting and applying Section 12901, particularly in the context of consumer products exposures.

On June 4, 2004, OEHHA issued a Notice of Proposed Rulemaking announcing that OEHHA was proposing changes to the Proposition 65 regulations, specifically, Title 22, California Code of Regulations, Division 2, Chapter 3, Section 12901. Following the Notice it had become clear from the comments received concerning the existing and proposed regula-

tion, that neither provided adequate clarity for the regulated community and that the best approach would be to repeal the regulation in its entirety, an alternative discussed in the June 4 Notice. A Notice of Intent to Repeal Section 12901 was issued on September 17, 2004.

Following the September 17 Notice of Intent to Repeal, OEHHA met with representatives of all the stakeholder groups that had filed substantive comments concerning that proposed action. In that meeting, the stakeholders discussed a possible new, pared-down draft version of Section 12901 that would accomplish the original purpose of the regulation of allowing regulated businesses to rely on the results of testing methods they were already using to determine compliance with Proposition 65.

OEHHA drafted a new proposed regulation that attempted to address the key issues raised by the various stakeholders at the November 15 meeting which was more limited in scope than the existing regulation and could replace Section 12901 if it were repealed. The draft was acceptable to some of the participants, with minor changes, and rejected entirely by others. OEHHA determined that the appropriate action at that time was to proceed with repeal of the regulation. The existing Section 12901 was submitted to the Office of Administrative Law for repeal on February 8, 2005. At the same time, OEHHA decided to propose a new regulation that it believed would meet the basic concerns of the regulated community, would further the purposes of the Act and be consistent with California evidentiary law.

OEHHA believes the narrower focus of the proposed regulation will allow it to provide more clarity and certainty for the regulated community, encourage compliance testing on the part of regulated businesses, while at the same time recognize that existing state law adequately and appropriately addresses many of the other issues that the existing regulation attempted to address.

#### AUTHORITY

Health and Safety Code section 25249.12.

#### REFERENCE

Health and Safety Code sections 25249.5, 25249.6, 25249.7, 25249.9, 25249.10 and 25249.11.

#### IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

OEHHA has determined the proposed regulatory action would not impose a mandate on local agencies or school districts; nor does it require reimbursement by the State pursuant to Part 7 (commencing with

Section 17500) of Division 4 of the Government Code. OEHHA has also determined that no nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

**COSTS OR SAVINGS TO  
STATE AGENCIES**

OEHHA has determined that no savings or increased costs to any State agency will result from the proposed regulatory action.

**EFFECT ON FEDERAL FUNDING  
TO THE STATE**

OEHHA has determined that no costs or savings in federal funding to the State will result from the proposed regulatory action.

**EFFECT ON HOUSING COSTS**

OEHHA has determined that the proposed regulatory action will have no effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE  
ECONOMIC IMPACT DIRECTLY AFFECTING  
BUSINESS, INCLUDING ABILITY TO COMPETE**

OEHHA has made an initial determination that the adoption of the regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulation does not impose any new requirements upon private persons or business. In fact, the proposed regulatory action is intended to provide an affirmative defense, under specified circumstances, to allegations that a person doing business may have violated the Act.

**IMPACT ON THE CREATION, ELIMINATION,  
OR EXPANSION OF JOBS/BUSINESSES**

OEHHA has determined that the proposed regulatory action will not have any impact on the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

**COST IMPACTS ON REPRESENTATIVE  
PRIVATE PERSONS OR BUSINESSES**

OEHHA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**EFFECT ON SMALL BUSINESSES**

OEHHA has determined that the proposed regulatory action will not impose any new or additional requirements on small business. Proposition 65 is limited by its terms to businesses with 10 or more employees (Health and Safety Code §§ 25249.5,

25249.6 and 25249.11(b). The proposed regulation is intended to address core needs for clarity and certainty that were specifically requested by regulated businesses. Further, it provides for an affirmative defense, under specified circumstances, to allegations that a person doing business may have violated the Act.

**CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), OEHHA must determine that no reasonable alternative considered by OEHHA, or that has otherwise been identified and brought to the attention of OEHHA would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF STATEMENT OF REASONS  
AND TEXT OF PROPOSED REGULATIONS**

OEHHA has prepared and has available for public review an Initial Statement of Reasons for the proposed regulations, all the critical information upon which the regulation is based, and the text of the proposed regulations. A copy of the Initial Statement of Reasons and a copy of the text of the proposed regulations are available upon request from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. These documents are also posted on OEHHA's Web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**AVAILABILITY OF CHANGED  
OR MODIFIED TEXT**

The full text of any regulation which is changed or modified from the express terms of the proposed action will be made available at least 15 days prior to the date on which OEHHA adopts the resulting regulation. Notice of the comment period on the changed proposed regulations and the full text will be mailed to individuals who testified or submitted oral or written comments at the public hearing, whose comments were received by OEHHA during the public comment period, and who request notification from OEHHA of availability of such change. Copies of the notice and the changed regulation will also be available at the OEHHA's Web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

**FINAL STATEMENT OF REASONS**

A copy of the Final Statement of Reasons may be obtained, when it becomes available, from OEHHA's Proposition 65 Implementation Program at the address and telephone number indicated above. The Final Statement of Reasons will also be available at the OEHHA's Web site at [www.oehha.ca.gov](http://www.oehha.ca.gov).

## GENERAL PUBLIC INTEREST

### DEPARTMENT OF FISH AND GAME

#### CESA CONSISTENCY DETERMINATION FOR Segment 1 of the State Route 4 Bypass Project Contra Costa County

The Department of Fish and Game ("Department") received notice on January 31, 2005 that the State Route 4 Bypass Authority proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). The project is the construction of a 3.2 mile multi lane freeway bypass connecting the existing SR 4 and Lone Tree Way in eastern Contra Costa County. Project activities also include the construction of a wetland mitigation basin between the Bypass and Neroly Road. The Project will permanently impact approximately 88.8 acres of habitat for San Joaquin Kit Fox.

The U.S. Fish and Wildlife Service, on September 22, 2004, issued to the U.S. Army Corps of Engineers a no jeopardy Federal Biological Opinion (1-1-04-F-0282) which considers the Federally endangered and State threatened San Joaquin kit fox (*Vulpes macrotis mutica*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, the State Route 4 Bypass Authority is requesting a determination that Federal Biological Opinion 1-1-04-F-0282 is consistent with CESA. If the Department determines that the Federal Biological Opinion is consistent with CESA, the State Route 4 Bypass Authority will not be required to obtain an incidental take permit under CESA (Fish and Game Code Section 2081(b)) for the proposed project.

## DECISION NOT TO PROCEED

### DEPARTMENT OF FOOD AND AGRICULTURE

#### NOTICE OF DECISION NOT TO PROCEED WITH RULEMAKING ACTION

Pursuant to Government Code section 11347, the Department of Food and Agriculture, Meat and Poultry Inspection Branch, has decided not to proceed with its rulemaking action described in the Notice published in the *California Regulatory Notice Register*, No. 31-Z, on July 30, 2004, OAL File No. Z-04-0709-02. This action pertained to the requirements for meat and poultry inspection in California under Articles 1, 2 and 3 of Subchapter 1, Chapter 4,

Division 2, of Title 3 of the California Code of Regulations.

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### AIR RESOURCES BOARD

##### Portable Diesel-Fueled Engines

This rulemaking action establishes an Airborne Toxic Control Measure (ACTM) for Portable Diesel-Fueled Engines. The ACTM requires all un-exempted portable diesel-fueled engines larger than 50 horsepower to use only specified fuels, and to be certified to Tier 1, 2, or 3 U.S. EPA/ARB off-road engine standards by 2010. After 2010 the ACTM requires all fleets to meet diesel particulate matter (PM) emission averages that become more stringent in 2013, 2017, and 2020. Options available to satisfy the fleet emission standards include: operating cleaner engines, replacing engines, using add-on control devices, switching to alternative fuels, and receiving credits for electrification. By 2020 to meet the diesel PM standards all engines in a fleet must be certified to proposed Tier 4 standards, be equipped with a Level-3 PM control technology, or be a certified engine equipped with control technologies that achieve an emission of 0.04 g/bhp-hr for engines less than 175 hp or 0.02 g/bhp-hr for engines 175 hp or larger. The ACTM also establishes recordkeeping and reporting requirements for fleets, and establishes alternate compliance provisions for engines used exclusively in emergency applications, engines that qualify as low-use engines, and engines used in lattice boom cranes, and provides incentives to encourage replacement of older engines with new, lower emitting engines.

Title 17

California Code of Regulations

ADOPT: 93116, 93116.1, 93116.2, 93116.3, 93116.4, 93116.5

Filed 02/09/05

Effective 03/11/05

Agency Contact: George Poppic (916) 322-3940



**BOARD OF EDUCATION****Instructional Materials**

Repeals regulations implementation an instructional materials program aligned with academic standards.

**Title 5**

California Code of Regulations

REPEAL: 9540, 9541, 9542, 9543, 9544, 9545, 9546, 9547, 9548, 9549, 9550

Filed 02/09/05

Effective 02/09/05

Agency Contact: Debra Strain (916) 319-0641

**BOARD OF EQUALIZATION****Place of Sale & Use for Purposes of Bradley Burns Uniform Local Sale & Use**

The Board of Equalization (Board) is amending title 18, section 1802, California Code of Regulations, in order to bring it into conformity with Revenue and Taxation Code section 7203.1. Further, the Board is making various editorial corrections.

**Title 18**

California Code of Regulations

AMEND: 1802

Filed 02/08/05

Effective 02/08/05

Agency Contact: Diane G. Olson (916) 322-9569

**BUREAU OF HOME FURNISHINGS AND THERMAL INSULATION****TB 603 Law Label Revision**

This change without regulatory effect would rearrange the layout of the law label that is required to be attached to mattresses, futons, and box spring sets manufactured for sale in California.

**Title 4**

California Code of Regulations

AMEND: 1371

Filed 02/04/05

Effective 02/04/05

Agency Contact: Sophia Azar (916) 574-0282

**DEPARTMENT OF CORPORATIONS****Consent to Service of Process**

Non-substantive changes to the standard form used to designate the Department of Corporations as agent for services of process. The changes make the form more understandable but do not substantively modify the required contents.

**Title 10**

California Code of Regulations

AMEND: 260.165

Filed 02/09/05

Effective 02/09/05

Agency Contact: Kathy Womack (916) 322-3553

**DEPARTMENT OF FOOD AND AGRICULTURE****Karnal Bunt Disease Interior Quarantine**

This emergency regulatory action removes the Karnal bunt disease interior quarantine from a portion of the Palo Verde Valley in Riverside County considered to be free from disease thereby eliminating restrictions in the intrastate movement of hosts and possible carriers.

**Title 3**

California Code of Regulations

AMEND: 3430(b)

Filed 02/02/05

Effective 02/02/05

Agency Contact: Stephen Brown (916) 654-1017

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT****Mobile Home Parks—Roof Snow Load Requirements**

This filing is a change without regulatory effect which implements SB 1176 (Stats. 2004, Chap. 622) by eliminating the current regulatory requirement that mobilehomes or cabanas installed above 5000' must have the capacity to resist minimum snow loads as established by local residential building codes.

**Title 25**

California Code of Regulations

ADOPT: 1338.1, 1443.1 AMEND: 1338

Filed 02/02/05

Effective 03/04/05

Agency Contact: Lenora Frazier (916) 323-4475

**DEPARTMENT OF MANAGED HEALTH CARE****Conflict of Interest Code Amendment**

The Department of Managed Health Care is amending its conflict of interest code found at title 28, section 1000, California Code of Regulations. The amendment was approved for filing by the Fair Political Practices Commission on December 3, 2004.

**Title 28**

California Code of Regulations

AMEND: 1000

Filed 02/03/05

Effective 03/05/05

Agency Contact:

Elaine Paniewski

(916) 324-9024

**DEPARTMENT OF MOTOR VEHICLES****Submitting Fees and Documents to the Department**

This is a nonsubstantive action conforming regulations to recent statutory changes (Statutes of 2004, ch. 430, amending the Vehicle Code) concerning a registration service that submits an application for substitute or duplicate license plate. The statute was amended to allow additional parties and entities to apply for such licenses. This regulation makes



reference to Vehicle Code section 4466 which lists those other parties/entities that are now allowed to apply for a duplicate/substitute license plate.

Title 13  
California Code of Regulations  
AMEND: 330.32  
Filed 02/08/05  
Effective 02/08/05  
Agency Contact:  
Bonnie DeWatney (916) 657-8954

**DEPARTMENT OF MOTOR VEHICLES**  
**Termination of Suspension or Revocation**

In this regulatory action, the Department of Motor Vehicles amends its regulations pertaining to "Termination of Suspension or Revocation" of a driver license and "Reissuance of California Driver License" pursuant to Vehicle Code section 13353.5.

Title 13  
California Code of Regulations  
AMEND: 124.92, 124.93  
Filed 02/02/05  
Effective 03/04/05  
Agency Contact: Ann Myrick (916) 657-8857

**OCCUPATIONAL SAFETY AND HEALTH**  
**STANDARDS BOARD**  
**Internal Combustion Engine Exhaust Emission**  
**Control**

These are nonsubstantive, editorial changes, including making corrections to agency names and authority and reference citations.

Title 8  
California Code of Regulations  
AMEND: 5146  
Filed 02/04/05  
Effective 02/04/05  
Agency Contact: Marley Hart (916) 274-5721

**STATE ALLOCATION BOARD**  
**Leroy F. Greene School Facilities Act of 1998—**  
**Hazardous Waste Costs**

The regulatory action deals with adjustments to construction grants for districts' eligible hazardous waste costs on new, leased and existing sites.

Title 2  
California Code of Regulations  
AMEND: 1859.106  
Filed 02/03/05  
Effective 02/03/05  
Agency Contact: Robert Young (916) 445-0083

**STATE ALLOCATION BOARD**  
**Leroy F. Greene School Facilities Act of 1998—**  
**Second Mod. Funding**

This action updates regulations relating to funding modernization of school sites to coordinate with a legislative change approved in 2003, amending Edu-

cation Code section 17073.15, expressly allowing modernization funding of classrooms last modernized more than 20, or 25 years ago.

Title 2  
California Code of Regulations  
ADOPT: 1859.78.8 AMEND: 1859.2, 1859.60,  
1859.61, 1859.78.6  
Filed 02/03/05  
Effective 02/03/05  
Agency Contact: Robert Young (916) 445-0083

**STATE WATER RESOURCES CONTROL BOARD**  
**Water Quality Control Plan, Los Angeles Region**

This regulatory action amends the Water Quality Control Plan for the Los Angeles region by revising the Total Maximum Daily Load for trash in Ballona Creek and wetland.

Title 23  
California Code of Regulations  
ADOPT: 3939.12  
Filed 02/08/05  
Effective 02/08/05  
Agency Contact: Joanne Cox (916) 341-5552

**CCR CHANGES FILED WITH THE**  
**SECRETARY OF STATE**  
**WITHIN SEPTEMBER 22, 2004**  
**TO FEBRUARY 9, 2005**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

10/13/04 ADOPT: 1015, 1019, 1048, 1050  
AMEND: 1000, 1002, 1004, 1006, 1008,  
1012, 1014, 1016, 1018, 1020, 1022,  
1024, 1026, 1027, 1028, 1030, 1032,  
1034, 1038, 1040, 1042, 1044, 1046

**Title 2**

02/03/05 AMEND: 1859.106  
02/03/05 ADOPT: 1859.78.8 AMEND: 1859.2,  
1859.60, 1859.61, 1859.78.6  
01/31/05 AMEND: 1859.2, 1589.33, 1859.35,  
1859.77.3, 1859.82, 1859.83  
01/26/05 ADOPT: 20107  
01/04/05 AMEND: 18703.4, 18730, 18940.2,  
18942.1, 18943  
01/03/05 ADOPT: Division 8, Chapter 108, Sec-  
tion 59530.

12/31/04 AMEND: 18545  
 12/31/04 ADOPT: 18229  
 12/20/04 ADOPT: 1859.71, 1859.78.1 AMEND:  
 1859.2, 1859.73.2, 1859.79.2, 1859.82,  
 1859.83  
 12/16/04 ADOPT: 1859.51.1, 1859.70.2 AMEND:  
 1859.2, 1859.51, 1859.70, 1859.103,  
 12/06/04 AMEND: 1859.2, 1859.51  
 11/30/04 AMEND: Div. 8, Ch. 29, Sec. 50000  
 11/24/04 AMEND: 1866, 1866.1, 1866.2, 1866.4,  
 1866.4.1, 1866.4.2, 1866.4.3, 1866.5,  
 1866.5.1, 1866.7, 1866.13  
 11/22/04 AMEND: 58700  
 11/18/04 AMEND: 561, 561.1, 561.2, 561.4, 561.5,  
 561.6, 561.7, 561.8, 561.9, 561.10,  
 561.11, 561.12, 561.13, 561.14  
 11/10/04 ADOPT: 1859.163.1, 1859.163.2,  
 1859.163.3, 1859.164.2, 1859.167.1  
 AMEND: 1859.2, 1859.145, 1859.145.1,  
 189.160, 1859.161, 1859.162, 1859.163,  
 1859.164, 1859.164.1, 1859.165,  
 1859.166, 1859.167, 1859.168, 1859.171  
 11/09/04 AMEND: 18530.8  
 11/04/04 AMEND: 1859.71.2, 1859.78.4  
 11/02/04 ADOPT: 1859.123.1 AMEND: 1859.2,  
 1859.73.1, 1859.81, 1859.83, 1859.90,  
 1859.120, 1859.121, 1859.122,  
 1859.122.1, 1859.122.2, 1859.123,  
 1859.124, 1859.124.1, 1859.125,  
 1859.125.1, 1859.126, 1859.127,  
 1859.129, 1859.130  
 11/02/04 AMEND: 1859.51, 1859.105  
 10/26/04 ADOPT: 18361.1, 18361.2, 18361.3,  
 18361.4, 18361.5, 18361.6, 18361.7,  
 18361.8, AMEND: 18361.5, 18406,  
 18450.4, 18702.2, 18702.5, 18740,  
 18747, 18754, 18951 REPEAL: 18361  
 09/29/04 ADOPT: 20107  
 09/23/04 AMEND: 18401, 18421.1  
 09/23/04 ADOPT: 588, 588.1, 588.2, 588.3, 588.4,  
 588.5, 588.6, 588.7, 588.8, 588.9,  
 588.10

### Title 3

02/02/05 AMEND: 3430(b)  
 01/21/05 ADOPT: 3700  
 01/21/05 AMEND: 3700 (b)(c)  
 01/14/05 AMEND: 3700(c)  
 01/13/05 AMEND: 3962(a)  
 12/20/04 REPEAL: 305, 306  
 11/29/04 AMEND: 3423(b)  
 11/17/04 AMEND: 1703.3  
 11/16/04 AMEND: Subchapter 1.1  
 11/10/04 AMEND: 3601(g)  
 11/03/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3,  
 6784 AMEND: 6000, REPEAL: 6450,  
 6450.1, 6450.2, 6250.3, 6784

10/25/04 AMEND: 3700(c)  
 10/14/04 AMEND: 3423(b)  
 10/13/04 AMEND: 3700(b)  
 10/06/04 AMEND: 3877(a), 3883, 3885(a)(b),  
 4603(f) REPEAL: 3902  
 10/06/04 ADOPT: 2042, 2100, 2101, 2102  
 10/04/04 AMEND: 1280.2  
 09/22/04 AMEND: 3430(b)

### Title 4

02/04/05 AMEND: 1371  
 01/28/05 ADOPT: 12270, 12271, 12272  
 12/23/04 ADOPT: 10163, 10164 AMEND: 10152,  
 10153, 10154, 10155, 10156, 10157,  
 10158, 10159, 10160, 10161, 10162  
 12/20/04 ADOPT: 12200, 12200.1, 12200.3,  
 12200.5, 12200.6, 12200.7, 12200.9,  
 12200.10A, 12200.10B, 12200.10C,  
 12200.11, 12200.13, 12200.14, 12200.15,  
 12200.16, 12200.17, 12200.18, 12200.20,  
 12200.21, 12201, 12202, 12203, 12203A,  
 12203.1, 12203.2, 12203.3, 12203.  
 12/16/04 ADOPT: 144  
 12/16/04 ADOPT: 10300, 10301, 10302, 10303,  
 10304, 10305, 10306, 10307, 10308,  
 10309, 10310, 10311, 10312, 10313,  
 10314, 10315, 10316, 10317, 10318,  
 10319, 10320, 10321, 10322, 10323,  
 10324, 10325, 10326, 10327, 10328,  
 10329, 10330, 10331, 10332, 10333,  
 10334, 1  
 11/29/04 AMEND: 1846.5  
 11/23/04 ADOPT: 2444 AMEND: 2241, 2242,  
 2243, 2245, 2250, 2270, 2271, 2300,  
 2401, 2422, 2423, 2424, 2425, 2426,  
 2441, 2442, 2443, 2505, 2507, 2511, 2512  
 11/08/04 ADOPT: 12360, 12370  
 10/18/04 ADOPT: 12270, 12271, 12272  
 10/14/04 AMEND: 1402, 1471, 2056, 2101, 2102,  
 2103  
 10/13/04 AMEND: 1371  
 09/23/04 ADOPT: 144

### Title 5

02/09/05 REPEAL: 9540, 9541, 9542, 9543, 9544,  
 9545, 9546, 9547, 9548, 9549, 9550  
 01/31/05 AMEND: 80048.3, 80457, 80523.1 RE-  
 PEAL: 80413.1  
 01/19/05 ADOPT: 19814.1, 19832, 19833, 19834,  
 19835, 19836 REPEAL: 19814  
 01/10/05 ADOPT: 3088.1, 3088.2  
 12/08/04 ADOPT: 9517.1 AMEND: 9515, 9517  
 11/16/04 ADOPT: 80089.3, 80089.4  
 11/15/04 ADOPT: 6116, 6126 AMEND: 6100,  
 6115, 6125  
 11/09/04 ADOPT: 14105  
 11/04/04 AMEND: 11981, 11985  
 11/02/04 AMEND: 58311, 58316

09/30/04 ADOPT: 19814.1, 19832, 19833, 19834,  
19835, 19837, 19837 AMEND: 19814  
09/22/04 AMEND: 11530

**Title 7**

12/06/04 AMEND: 213, 218

**Title 8**

02/04/05 AMEND: 5146  
01/26/05 AMEND: 5144  
01/26/05 AMEND: 3456  
01/24/05 AMEND: 3427  
12/31/04 ADOPT: 9785.4, AMEND: 9725, 9726,  
9727, 9785, 9785.2, 9785.3, 9805, 10150,  
10152, 10156, 10158, 10160, 10163,  
10165.5 REPEAL: 10151, 10154  
12/31/04 ADOPT: 9768.1, 9768.2, 9768.3, 9768.4,  
9768.5, 9768.6, 9768.7, 9768.8, 9768.9,  
9768.10, 9768.11, 9768.12, 9768.13,  
9768.14, 9768.15, 9768.16, 9768.17  
12/30/04 AMEND: 3380(d)  
12/27/04 ADOPT: 32032, 32033, 32034, 32035,  
81000, 81005, 81010, 81020, 81030,  
81040, 81050, 81055, 81060, 81065,  
81070, 81075, 81080, 81090, 81100,  
81105, 81110, 81115, 81120, 81125,  
81130, 81135, 81140, 81145, 81150,  
81155, 81160, 81165, 81170, 81175,  
81180,  
12/15/04 AMEND: 9789.11  
12/15/04 ADOPT: 9788.01, 9788.1, 9788.11,  
9788.2, 9788.3, 9788.31, 9788.32,  
9788.4, 9788.45, 9788.5, 9788.6, 9788.7,  
9788.8, 9788.9, 9788.91  
12/09/04 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,  
9792.10, 9792.11 REPEAL: 9792.6  
12/08/04 AMEND: 3210, 3212  
12/08/04 AMEND: 1602(a)  
12/07/04 AMEND: 3314  
11/09/04 AMEND: 6777  
11/03/04 AMEND: 1541(l)(1)  
11/03/04 AMEND: 15220, 15220.1, 15220.3,  
15220.4  
11/01/04 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,  
9767.5, 9767.6, 9767.7, 9767.8, 9767.9,  
9767.10, 9767.11, 9767.12, 9767.13,  
9767.14  
10/19/04 ADOPT: 16421, 16422, 16423, 16424  
AMEND: 16425, 16426, 16427, 16428,  
16429, 16431, 16432, 16433, 16434,  
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01/14/05 AMEND: 2498.6  
01/07/05 ADOPT: 2699.6608 AMEND: 2699.100,  
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